*** HON'BLE SRI JUSTICE V.V.S.RAO**

+ WRIT PETITION No.20100 of 2004

%Dated 21-09-2006

Dammalapati Ramalingam and others.

… Petitioners.

VERSUS

$ The District Collector, Khammam District, and another.

… Respondents.

! Counsel for Petitioners: Sri M.Sudheer Kumar

^Counsel for Respondents: G.P for Revenue

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? Cases referred

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20100 of 2004

Dated:21.09.2006

Between:

Dammalapati Ramalingam and others.

…Petitioners

and

The District Collector and another.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20100 of 2004

ORDER:

The three petitioners purchased the land from M/s.V.T.K.Prabhakar and fifteen others under registered sale deeds in 1996. The petitioners allege that their vendors or their predecessors in title had been enjoying the land with all their rights since long. However, it appears, the second respondent made attempts to resume the land on the ground that the original assignees in whose favour the land was allegedly assigned relinquished their rights. Therefore, the present Writ Petition is filed seeking a writ of mandamus declaring the action of the respondents in resuming the land in Survey Nos.21 and 30 situated at Raghunathapalem Village of Khamman (Urban) Mandal in Khammam District, as arbitrary and illegal. They also sought a consequential direction to the respondents not to reassign the resumed land.

This Court while adjourning the matter for instructions by the Government Pleader on 02.11.2004 passed orders directing the respondents not to distribute the land to the third parties. Subsequently, the matter was admitted on 10.11.2004 and the interim order was directed to be continued until further orders. The respondents have now come forward with W.V.M.P.No.755 of 2005 seeking vacation of the said order.

In the counter affidavit, *inter alia,* it is stated that the land in Survey Nos.21 and 30 of Raghunathapalem Village was assigned by the Tahsildar, Khammam, vide proceedings dated 14.06.1971 to as many as six persons, that these assignees did not cultivate the land and that when the officials contacted them, the assignees voluntarily redelivered the land to the Government under Rule 16[1]. By reason of such redelivery/razinama, the Mandal Revenue Officer took possession of the land on 19.10.2004. The allegation made by the petitioners that the procedure contemplated under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act No.9 of 1977) (for short 'the Act'), and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977 (for short 'the Rules'), has not been followed, is not denied. The respondents assert that the land was assigned in 1971. Section 2(1) of the Act defines "assigned lands" means lands assigned by the Government to the landless poor persons under the rules for the time being in force. Therefore, even if the land is allegedly assigned in 1971, the same is covered under the Act. Section 3(2) of the Act prohibits transfer of assigned land and in the event of such transfer, power is conferred on the competent authority under Section 4 of the Act to take possession of the assigned land, after evicting the person in possession in such manner as may be prescribed. The procedure is contemplated under Rule 3 of the Rules, which provides that before taking any action under Section 4 of the Act, the authorized officer shall issue notice to the person who acquired the assigned land in contravention of the provisions of Section 3 of the Act. Section 10 of the Act gives overriding effect to it over all other laws. Therefore, even if there is some other law, which enables the revenue authorities to accept relinquishment by the registered holders, but still the provisions of the Act cannot be ignored. In that view of the matter, the reliance placed by the respondents on Rule 16 enables the Tahsildar to give effect to relinquishment by registered holder in Form-C and take possession of the land. Having regard to Section 10 of the Act, it must be held that the procedure contemplated under section 4 of the Act read with Rule 3 of the Rules overrides Rule 16.

Further more, as rightly pointed out by the learned Senior Counsel when the power is conferred on the revenue authorities to resume the assigned land following certain procedure, the same has to

be followed invariably and the noncompliance with such procedure would render any action illegal. This position is well settled in law.

Therefore, the Writ Petition is allowed declaring the action of the respondents in resuming the land without following the procedure contemplated under the Act as illegal and arbitrary. It shall, however, be open to the Mandal Revenue Officer to take appropriate action in accordance with the Act. No costs.

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(V.V.S.RAO, J)

21.09.2006

Note: L.R copy to be marked.

B/o.

vs

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[1] Rule 16 of the Andhra Pradesh (Telangana Area) Land Revenue Rules, 1951